

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. C 06-1304 SBA

Plaintiff,

ORDER

v.

[Docket No. 188]

CHRISTOPHER MURAD, et al.,

Defendants.

This matter comes before the Court on Plaintiff's Motion for Leave to File an Amended Complaint.

BACKGROUND

This is an action for ejectment, trespass, and injunctive relief. Plaintiff seeks to end all unauthorized use of the United States' real property at Pleasure Cove Marina, located at Lake Berryessa, Napa County, California. Prior to the filing of the original and First Amended Complaint, Mark and Janette Caruso were taking voluntary steps to remove their mobile home and personal property from the land. As such, the Carusos were not named as Defendants. Lucero Decl. at ¶ 5. However, Plaintiff has since learned that the Carusos donated their mobile home to the California Water Posse, and that the mobile home has not been and would not be removed. *Id.* at ¶ 6. The California Water Posse is an entity which is owned and operated by the Half Moon Bay Coastside Foundation; the Executive Director of the California Water Posse is Oscar Braun. *Id.*

Accordingly, Plaintiff seeks to file a second amended complaint adding the Carusos, the California Water Posse, the Half Moon Bay Coastside Foundation, and Oscar Braun as Defendants. *Id.* at ¶ 7. Defendants have not filed an opposition to the Motion.

DISCUSSION

Federal Rule of Civil Procedure 15(a) provides that, after a first amendment, leave of court is required to file an amended pleading. The Rule is to be applied liberally in favor of amendments and,

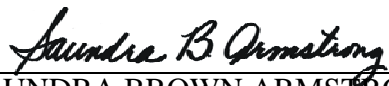
1 in general, leave shall be freely given when justice so requires. *Eminence Capital, LLC v. Aspeon, Inc.*,
2 316 F.3d 1048, 1051 (9th Cir. 2003); *Janicki Logging Co. v. Mateer*, 42 F.3d 561, 566 (9th Cir. 1994).
3 However, a district court need not grant leave to amend where the amendment: 1) prejudices the
4 opposing party; 2) is sought in bad faith; 3) produces an undue delay in litigation; or 4) is futile.
5 *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387 (9th Cir. 1990); *Moore v. Kayport Package Express*,
6 885 F.2d 531, 538 (9th Cir. 1989). Of these factors, prejudice to the opposing party is the most
7 important. *Jackson*, 902 F.2d at 1387 (citing *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S.
8 321, 330-31 (1971)). There is no evidence that any of the above factors are present in this case.

9 Further, under this Court's standing orders, "[t]he failure of the opposing party to file a
10 memorandum of points and authorities in opposition to any motion shall constitute a consent to the
11 granting of the motion." Accordingly, the Court deems Defendants to have consented to Plaintiff's
12 Motion.

13 IT IS HEREBY ORDERED THAT Plaintiff's Motion for Leave to File an Amended Complaint
14 is GRANTED.

15 IT IS SO ORDERED.

16
17 Dated: 10/30/06


SAUNDRA BROWN ARMSTRONG
United States District Judge